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House of Lords

Address to the conference on East Timor

University of Oporto,

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Lord Avebury

Chairman, UK Parliamentary Human Rights Group

1991 is a critical year for East Timor. The UN Secretary General retires in December, and would no doubt like to be able to report some progress on the issue before his departure. The Portuguese Parliamentary mission, talked about for two years, must take place in the next two months if at all, and after that the consultations continuing their languid way under Resolution 37/30 will have to be refocussed onto other objectives. Meanwhile, the context of world opinion on the question of self-determination may change radically because of what is actually happening on the ground. In Western Sahara, there is to be a plebiscite; in Eritrea, the EPLF has gained de facto independence; in Kashmir, the intifada is making the territory ungovernable in spite of the presence of 400,000 Indian troops; an embryo Kurdistan is emerging in northern Iraq, and several of the Republics of the Soviet Union have declared their independence. The United Nations Security Council passed a number of Resolutions on the annexation of a small territory by its large and powerful neighbour.

Legally, there is no difference between the cases of East Timor and Kuwait. Both are violations of Article 2 paragraph 4 which provides that

...states should.... refrain in their international relations from the threat or use of force against the territorial integrity or national independence of any state or in any other manner inconsistent with the purpose of the United Nations.

A Minister in the UK Foreign Office, conceding the point in a recent letter, candidly explained that

.... the United Nations at that time was not in a position with respect to east Timor to take the resolute action that it took over Kuwait 15 years later

and we might add that if the UN had acted more firmly over East Timor, the invasion of Kuwait might never have happened.

Conversely, the action over Kuwait exposes the multiple standards of the international community, and makes it imperative that we now try to persuade them of the importance of consistency, while the example is still fresh in everybody's mind.

Parliamentarians for East Timor was formed in June 1988 when Satsuki Eda of Japan, Tony Lamb of Australia and I met in Lisbon, and since then we have enlisted some 300 Members of Parliament in 15 countries. The object is to help promote the self-determination of East Timor, in accordance with UN rules on decolonisation, and particularly Resolutions 1514 and 1541 of 1960. One of our main tasks has been to clarify the meaning of the phrase in Resolution 37/30 of November 1982, 'all the parties directly concerned'. We always construed that as placing an obligation on the Secretary General to consult the people of East Timor themselves, and we have tried to persuade him to hold talks with their representatives. As I understand the Portuguese view, it is that although the Secretary General has the discretion to consult whomever he wishes, the people of East Timor have the right freely to choose their own political destiny. This of course implies that if they are not consulted under 37/30, any provisional solution reached by that process would have to be submitted to the people for their approval. I consider that we have got this process the wrong way round, since it is clearly a waste of time and effort discussing any proposals unless there is some chance they would be acceptable to the popular will. To take an example, we should not consent to any process which is under the control of the illegal forces of occupation. At the time of the 1987 elections, there were suggestions that the outcome in East Timor should be treated as a test of public opinion, and the Indonesians claimed afterwards that the high turnout

demonstrated the satisfaction of the electorate with Indonesian rule. What the 99.5% vote and the absence of any non government parties really showed was that no opposition to the illegal occupation would be tolerated. The same notion may be paraded again in 1992, and we should preempt it by asking Jakarta whether they will withdraw their forces and allow freedom of expression and of assembly, so that the voice of democracy can be heard.

Be that as it may, we had not learned the Secretary General's own interpretation of his mandate until a group of us went to see him in New York on March 25. We then found that officially, no spokesman had been recognised for the people of East Timor other than the Government of Portugal, as the administering power of the territory. If the Government of Portugal wished to bring East Timorese into the discussions, they could do so, presumably as part of their own team. This is an interesting possibility which **Portugal may wish to explore with the Convergencia on the one hand, and the Secretary General on the other.**

The Assistant Secretary General, Mr Rafeeuddin Ahmed, said that he had met a number of East Timorese informally, and was ready to continue those talks, which apparently are considered to be separate from the consultations under 37/30. **The Convergencia may feel it would be appropriate to ask for somewhat more official discussions, at which they might submit a paper.** It might even be expedient to involve the commander of Falintil, Xanana Gusmao in these discussions, if the practicalities could be worked out. Some years ago, Xanana did indicate to me via the radio link with Darwin then in operation, that he was prepared to meet the Secretary General or his representative at any appropriate venue, subject to adequate security being arranged, and this ought now to be revived, particularly now that both the Secretary General and the Assistant have told us they are also willing in principle to meet Xanana.

As you know, Xanana has made new proposals for peace talks with no preconditions, except for the obvious one of a ceasefire, under the auspices of the United Nations. **It would be excellent if the Portuguese Government were prepared to endorse this proposal, since no other government is going to take any initiative, but if the Portuguese do, it stands a good chance of being endorsed by the Twelve.**

It was extremely reassuring to hear from the Secretary General himself that the two Resolutions of the Security Council and the eight Resolutions of the General Assembly were still in force, and constituted the framework within which the consultations under 37/30 were being conducted. One ought to be entitled to assume that unless rescinded or amended, UN Resolutions do remain on the statute book as it were, but the restatement of the demand that Indonesia withdraw from the territory, and of the legitimacy of the people's struggle to achieve self-determination is nevertheless useful, because the Indonesians no doubt hope these expressions of UN principles might be watered down or forgotten in time. Indeed, the Indonesian Ambassador to the UN, Mr Nana Sutresna was reported in the Jakarta Post of March 27 as saying that Resolution 37/30 had superseded all the earlier Resolutions on East Timor. He was wrong, and we can record that the prohibition on acquisition of territory by force is not affected by the passage of time.

Some experts look at the solution of the East Timor problem as a two stage process, the consultations under 37/30 being followed by detailed negotiations. This would be so in a scenario involving the withdrawal of the Indonesians at the end of the first stage, leaving the Portuguese as the de jure sovereign power to organise a referendum. The negotiations would then concern the mechanics only, such as the composition of an interim government, the registration of electors, the time span, and the election of a constituent assembly to draft a

constitution if the people opt for independence. But this means Jakarta has to be persuaded to face up to the truth. The Indonesian Foreign Minister, Mr Ali Alatas repeated, after our visit to New York, the distortions on which their policy is based: that Indonesia intervened in East Timor to help end the civil war; that she did so in response to an invitation issued by the majority of Timorese, and that the integration was in conformity with the wishes of the people. Actually, the civil war had ended in victory for Fretilin some time before the invasion; the invitation came from Apodeti, which secured 1% of the votes in the only free elections ever held in the territory, and the stooge assembly which purported to ratify the integration was composed of members nominated by the military forces of occupation. It might be useful if the Secretary General cleared the air by appointing some independent experts to prepare a factual account of those events, so that Jakarta's lies could be exposed once and for all. **Portugal might explore this with the Secretary General, and if he is not prepared to undertake the task himself, Portugal might commission a study by appropriately qualified academics from countries not directly involved.**

Incidentally, Mr Alatas contradicted himself by pretending that the PET visit to New York could be dismissed as laughable. If that had been so, then Mr Alatas would not have felt it necessary to make a special statement to the Indonesian news agency Antara, as reported in the Jakarta Post of March 28, nor would the Indonesian delegation to the UN have made frantic efforts to censor and falsify the record of the press conference we held after our meeting with the Secretary General.

How does the proposed visit of the Portuguese Parliamentarians fit in to the picture? One imagines that Indonesia may have had a twofold strategy: to make Portugal appear intransigent over the terms of the visit, and if it takes place, to represent it as an admission of Indonesia's sovereignty. Portugal, on the other hand, needed to avoid any such admission, and I think there is no risk that others will interpret the visit as the Indonesians would like, particularly now that Portugal has launched proceedings against Australia in the World Court, thus formally reasserting her sovereignty. The East Timorese have been very keen that the visit should go ahead, because it provides them with an opportunity for manifesting their desire for self-rule on a scale far greater than they did when His Holiness the Pope or the US Ambassador to Jakarta visited the territory. As I understand it, the Portuguese Parliament has agreed to all the conditions for the visit laid down by the Indonesians, and the ball is now firmly in Jakarta's court. **It would be useful to have a statement to that effect on the record.**

If fresh conditions are now demanded, or any other impediment is created from the other side, the explanation will be obvious: the Indonesians also realise that if there are mass demonstrations in favour of independence while the Parliamentarians are there, it will prove that the people do not accept Indonesian rule as claimed. What is very difficult to understand is what the Secretary General hopes to achieve with the visit. He told us it would help to create an atmosphere in which further dialogue could lead to an internationally acceptable solution. If by that he meant that a public manifestation of the will to independence would lead to a variation of Indonesia's stance, without any other pressures, I fear that he underestimates their rigidity. It has been suggested, on the other hand, that all he meant to imply was that once the visit had taken place, substantive issues could then be discussed. But of course, there would have been nothing to prevent the discussion of substantive issues in parallel with the visit, if the Indonesians had been so disposed.

It has been suggested by some of our friends in Britain that the Portuguese Parliament might send a small cross-party delegation to as many capitals as possible, to explain the background to the visit to East Timor, and to ask for

support in upholding the stand Portugal has taken in favour of East Timorese self-determination. This would be very useful indeed, and they could expect a warm welcome from the 65 Members of the House of Commons of all Parties, who have tabled a motion calling for implementation of all the UN Resolutions on East Timor.

One of the main reasons why no progress has been made towards a solution of the problem of East Timor for the last nine years is that it has been considered as an isolated case, and not as an example of a violation of the right of self-determination. Without a general mechanism for determining whether this right has indeed been violated, and to provide appropriate remedies, the tendency is always to let the bigger powers profit from their aggression. This we have seen in the past in the cases of Namibia, Eritrea, Western Sahara, Kashmir, Tibet and the Baltic Republics as well as East Timor. Local imperialists were given free rein, and the phrase 'colonial and alien domination' which occurs in so many UN Resolutions was never applied to the territories they annexed.

What are the prospects, then, for the local imperialists to grant the right of self-determination to peoples whose other human rights are regularly and persistently violated? At first sight they would appear to be dim, because of the machismo of territorial integrity, and the huge amounts of propaganda the imperialists have invested in their claims. But the European empires vanished from the scene by negotiation within the space of a generation. And if by transferring the disputes to the conference room, the resources devoted to military and police operations could be freed to promote economic activity, then everybody would benefit. The imperial government's image abroad would be greatly improved, and the restoration of peace would enhance the quality of life in the territories concerned.

All the other human rights in the Covenant on Civil and Political Rights are subject to review by the UN Committee on Civil and Political Rights. My proposal is that we seek to make the right of self-determination justiciable. The United Nations would appoint a High Commissioner for Self-Determination, whose task it would be to receive and evaluate claims to self determination, according to criteria laid down by the General Assembly. These might include previous history of statehood, ethnicity, religion, language, culture, existence of institutions, and the manifestation of a will to independence or autonomy. The High Commissioner would have the right to reject any claims that were frivolous or ill-founded, and the remainder he would report on to a reconstituted Committee of 24, on which the members would sit in their own right and not as representatives of their nominating states - like the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The Committee of 24, having considered the evidence, would either refuse the claim, or ask for more evidence, or, if satisfied that a case had been made, formally ask the state in question to agree to an internationally supervised referendum.

Presumably, any state agreeing to these procedures would immediately take the heat out of its current problems. The political advocates of separation would obviously want to give the new mechanism a chance, and their energies would be channelled into organising their membership to fight the referendum, instead of the armed struggle.

At the very least, the proposal deserves some public debate. The UK Government's only argument against it is that the member states of the UN, having unanimously agreed to the Charter because of the immunity it gives them against interference in their internal affairs, are not likely to relinquish that immunity voluntarily. I say that depends on their perception of the benefits, as with any sacrifice of sovereignty. If states are not ready to create mechanisms for

peaceful and orderly implementation of the right of self-determination, people will try to assert the right for themselves in a violent and anarchic manner anyway.

So far, I have raised the proposal in the context of debates on the cases of Tibet, Kashmir and Punjab, and in every instance the people themselves liked the idea. But if it is to be taken forward, it would have to gain the support of governments. **It would be enormously encouraging if Portugal, as she approaches the start of her Presidency of the Twelve, would consider taking it up.** She would be in harmony with the spirit of the times, in which I believe the words of that great prophet Woodrow Wilson may at last be fulfilled:

> *National aspirations must be respected, peoples may be dominated and governed only by their consent. Self-determination is not a mere phrase. It is an imperative principle of action, which statesmen will henceforth ignore at their peril.*